

Berks County Cooperative Purchasing Council

INVITATION TO BID

Item(s): Motor Oils and Lubricants

Issue Date: July 27, 2010

Bid Due, Time/Date: 2:00 P.M. Prevailing Time on August 18, 2010

Bid Opening Location: City Hall, Purchasing Coordinator, Rm. 2-45, 815 Washington Street, Reading, PA 19601

Contact Person: Heather Dunkle, City of Reading Purchasing Coordinator

Telephone No.: (610) 655-6207

This is a combined solicitation issued by the City of Reading, PA on behalf of the Berks County Cooperative Purchasing Council. All bids will be received at the location stated above. Bid documents must be enclosed in a sealed opaque envelope labeled "Sealed Bid – Motor Oils & Lubricants" and indicate the name of the bidder. **All bids must be accompanied by bid surety in the amount of not less than ten (10%) percent of the total amount of the bid.** Securities must be in the form of a surety bond, bank cashier's check or certified check. The Berks County Cooperative Purchasing Council shall be named on the bid surety.

VENDOR NAME: _____

ADDRESS: _____

PHONE & FAX: _____

CONTACT PERSON FOR THIS BID: _____

SPECIFY ANY PROMPT PAYMENT DISCOUNTS: _____

DAYS FOLLOWING AWARD REQUIRED FOR START UP: _____

FORM OF SECURITY & AMOUNT:

Bond _____ Certified Check _____ Bank Cashier's Check _____

SIGNATURE OF AUTHORIZED BIDDER & TITLE:

SECTION ONE
INSTRUCTIONS TO BIDDERS

1. SUBMISSION OF BID

Sealed bids shall be received in the Office of the City of Reading Purchasing Coordinator, Rm. 2-45, City Hall, 815 Washington Street, Reading, PA 19601, until 2:00 P.M., prevailing time on August 18, 2010. The City Purchasing clock shall be considered the official time. Bids received after the exact hour and date specified for receipt will not be considered.

Bids will be opened publicly immediately thereafter. Bidders shall submit one (1) original and one (1) copy to the bid. Bid documents must be enclosed in a sealed, opaque envelope with the words "Sealed Bid – Motor Oils & Lubricants" clearly printed on the outside. Bids received via facsimile will not be considered. To be considered, bid must be in accordance with the instructions contained in this Invitation to Bid. Bid prices must be typewritten or in ink. Signatures must be in ink. Bids must be firm.

2. BID SECURITY

Bid must be accompanied by bid security in the form of a Bank Cashier's Check, Certified Check, or Bid Bond in the amount of ten (10%) percent of the total amount of the bid. Any Bid Bond submitted must be covered with surety of a company authorized to do business in the Commonwealth of Pennsylvania. Such bid security shall be made payable to the "Berks County Cooperative Purchasing Council." Such bid security shall be a guarantee of good faith and is to secure the Council and its members from any loss by bidder's failure to comply with any of the terms of the bid. Surety is to become the property of the Council as just and liquidated damages in case the successful bidder fails to enter into it a contract.

The Council reserves the right to retain the surety until the lowest responsible bidder enters into a contract and provides the required Performance Bond and insurance certificates. All bonds are subject to the approval of the Solicitor.

3. BONDING

The successful bidder shall furnish a Performance Bond guaranteeing that the work will be completed in accordance with the Contract Documents and within the time specified. The Performance Bond amount shall be equivalent to One Hundred (100%) Percent of the total contract amount. The contractor shall pay the entire cost of the Performance Bond. All bidders are hereby informed that failure to deliver the required Performance Bond within ten (10) days of issuance of the contract documents by the Council is cause for contract termination in which case the contract award is voided and all obligations of the Council in connection herewith will be canceled. The cash or check deposited shall become absolute property of the Council; or if a bond has been deposited shall become payable immediately.

All Bonds shall be payable to the Berks County Cooperative Purchasing Council.

4. PREPARATION OF BIDS

If bid forms are included in this Invitation to Bid, the bid shall be made on such forms. All blanks shall be filled in and one (1) original copy complete with all signatures, seals, bid surety and documentation shall be submitted along with one (1) duplicate copy. The bidder shall sign the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority.

Bids by individuals must be signed personally, with name typed below signature, and witnessed. A complete address and trade name must be provided. Bids by partnerships must include the typed names and business address of all partners and the trade name. The bid must be signed by at least one (1) general partner, whose signature must be witnessed. Bids by corporations must include the typed name of corporation, the State of incorporation, the principal officer of the corporation, and must be signed by the President or Vice-President (or by an officer or agent duly authorized to bind the corporation to a contract, proof of whose corporate authority shall be attached), attested by the Secretary, Assistant Secretary, or Treasurer of the corporation.

For each item offered, bidders shall show unit price and enter the extended price for the quantity of each item offered, where applicable. In case of discrepancy between a unit price and an extended price, the unit price will be presumed to be correct.

Bids for supplies or services other than those specified will not be considered.

Bidders must comply with the time for delivery of supplies or for performance of services, unless otherwise specified in the contract documents. Contract award for scheduling purposes, is defined as, and understood by the contractor to be, the date and time that the Council accepts, by resolution, the bid of the successful bidder and directs that a contract be drawn. Furthermore, Notice of Contract Award is the official letter of acceptance forwarded by the Council to the successful bidder after contract award.

Time, if stated as a number of days will be calendar days including Saturdays, Sundays, and holidays.

The Council is not responsible and shall not be liable for any costs associated with the preparation of any bid.

5. EXCEPTION

Any exceptions to terms, conditions, or other requirements of any part of this Invitation to Bid must be clearly pointed out in the bid. Otherwise, the Council will consider that all items offered are in strict compliance with this Invitation to Bid, and the successful bidder will be responsible for compliance.

6. BID MODIFICATIONS/WITHDRAWAL

Bids may not be modified after submittal. Bidders may withdraw bids at any time up to the scheduled time for receipt of bids provided said request is in writing and properly signed. Bidders may resubmit bids provided it is prior to the scheduled time for receipt of bids.

After a bid has been opened, it may not be withdrawn except as provided by Act of January 23, 1974, P.L. 9 No. 4 as same may be amended.

7. QUALIFICATION OF BIDDERS

All bidders must be prepared to present suitable evidence of their financial standing and to furnish a list of similar work recently completed within three (3) days of bid opening. The bidder may be required to complete a questionnaire and financial statement or similar document prior to contract award which includes, financial statements (if any), references, a listing of any and all fictitious names used by the bidder and other information the Council deems relevant.

8. ACCEPTANCE, REJECTION, OR DISQUALIFICATION OF BIDS

The Council will award contract(s) to the lowest responsible bidder(s) meeting all terms, conditions, and specifications whose bid(s) is/are considered to be the most economical and in the Council's best interests. The Council reserves the right, in its sole and absolute discretion, to accept or reject any and all bids or parts thereof and to waive technical defects in its judgement is in the best interest of the Council.

A bid which is incomplete, obscure, conditioned, or which contains additions not called for, or irregularities of any kind, including alterations or erasures, which are not initialed, may be rejected as non-conforming.

Any bidder who has demonstrated poor performance during either a current or previous agreement with the Council or any of its members may be considered as an unqualified source and their bid may be rejected. The Council reserves the right to exercise this option as is deemed proper and/or necessary.

The Council reserves the right to disqualify bids, before or after opening, upon evidence of collusion with intent to defraud or other illegal practices upon the part of the bidder.

All bids received become the property of the Council and the information contained therein will become public record. If a bidder considers certain information in the submitted bid to be proprietary information and prefers that such information remains confidential, a written request for confidentiality must be submitted with the bid. Such request shall outline the proprietary information and explain the need for confidentiality. The Purchasing Coordinator and the Solicitor's Office will notify the bidder, in writing, of the Council's decision.

9. NON-COLLUSION AFFIDAVIT

The Council requires that a Non-Collusion Affidavit be submitted with all bids pursuant to its authority under the Pennsylvania Antibid-Rigging Act, 73 P.S. Section 1611 et seq.

10. DEBARMENT

By submitting a bid, the bidder represents that the bidder and its affiliates and subsidiaries, have not been notified that they are presently under consideration for debarment and have not in the last three (3) years been debarred by any Federal, State or other governmental agency, except as disclosed by the bidder in its proposal.

11. PRICING / TAXES / DELIVERY

All prices quoted shall be fixed and firm for the term of the contract. Bids containing references to possible escalation of prices or price protection may be rejected as conditioned bids.

Unless specified otherwise, deliveries shall be F.O.B. destination. All bid prices must include any costs associated with delivery.

The Council is exempt from all Federal Excise and Transportation Taxes, and State Sales and Use Taxes. Nothing in this paragraph is meant to exempt a construction contractor from the payment of sales or use tax required to be paid with respect to its purchase or use of tangible personal property used or transferred in connection with the performance of its construction contract. If the Council is required by law to pay any excise tax and then seek a refund or credit, the contractor may add the amount of the tax to the bid price as a separate item.

12. SITE VISIT

Bidders are urged and expected, but not required, to inspect the site(s) where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site relieve the bidder from the consequences of such failure to inspect the site and shall not constitute grounds for a claim after contract award.

13. QUESTIONS / CLARIFICATIONS

Bidders shall carefully review the Invitation to Bid for defects and questionable or objectionable matter. Objections to this Invitation to Bid must be submitted in writing to the Purchasing Coordinator via registered mail, fax or e-mail at the address below at least ten (10) days before the bid due date. If the objection is deemed legitimate, an amendment will be issued. Protests made by unsuccessful vendors based on objections of the Invitation to Bid document will not be allowed if an objection was not received in writing in the Purchasing Office at least ten (10) days before the bid due date.

Heather Dunkle, Purchasing Coordinator, City of Reading, City Hall, 815 Washington Street, Reading, PA 19601. Fax (610) 655-6427 or e-mail: heather.dunkle@readingpa.org.

END OF INSTRUCTIONS TO BIDDERS

SECTION TWO GENERAL CONDITIONS

1. DEFINITIONS AND HEADINGS

The Invitation to Bid, the bid proposal, and the notification of award constitutes the complete agreement between the parties (hereinafter the "Agreement"). References to the Agreement include these General Conditions. "The Berks County Cooperative Purchasing Council" or "Council" and "Contractor" are the parties identified as such in this Agreement. "Services" means the services identified in this Agreement as being the service to be performed by Contractor under this Agreement. The "Goods" means the equipment or items to be supplied by Contractor under this Agreement.

All headings of the Articles of these General Conditions are inserted for convenience only and shall not effect any construction or interpretation of this Agreement.

2. PRECEDENCE

The terms of the General Conditions, and any additional Special Conditions or purchase order terms and conditions supersede any printed or typed conditions forming a part of Contractor's proposal. The General Conditions, Special Conditions, purchase order conditions, and the specifications, contained in the Invitation to Bid cannot be waived, altered or modified except by written agreement of the parties.

3. WARRANTY

Contractor warrants to the Council that the goods and services furnished under this Agreement, whether manufactured or fabricated by Contractor or others, shall be (a) new (unless the Council has approved otherwise) and strictly conform to the specifications, drawings, samples or descriptions referred to herein or provided by the Council to Contractor, and (b) free from defects in materials and workmanship. All work performed shall be done in a skilled manner and shall comply with industry standards. Contractor shall promptly repair or replace goods and re-perform services, after receiving notification from the Council of defects or nonconformance. Goods manufactured or services provided by a third party and supplied by Contractor shall carry all third party warranties. All warranties shall survive any inspection, delivery, acceptance, or payment.

4. INSPECTION AND REJECTION

Goods received by the Council shall not be deemed accepted until the Council has had a reasonable opportunity to inspect. Goods which are discovered to be defective or non-conforming to the agreed upon specifications may be rejected upon initial inspection or at any later time if the defects or non-conformity were not reasonably discoverable at the time of initial inspection. Within fifteen (15) days of receipt of notification of rejection, Contractor shall remove rejected goods from the premises without expense to the Council. Rejected goods not removed within fifteen (15) days will be regarded as abandoned and the Council shall have the right to dispose of such goods as its own property and shall retain that portion of the proceeds of any sale which represents the Council's costs and expenses in regard to the storage and sale of the goods. Upon notification of rejection, the Contractor shall immediately replace all such rejected goods with others conforming

to the specifications and which are not defective. If the Contractor fails, neglects or refuses to do so, the Council shall then have the right to purchase in the open market a corresponding quantity of such Goods, and deduct from any monies due or that may thereafter become due to the Contractor, the difference between the price stated and the actual cost thereof to the Council. If the amount due the Contractor is insufficient to meet such expenses, the Contractor shall be liable for the excess and the Council may proceed against the Contractor through appropriate legal action.

5. PATENTS, COPYRIGHTS, TRADEMARKS

Contractor warrants, represents and covenants that the Goods and the sale and use thereof do not infringe directly or indirectly any valid patent, copyright, property right or trademark, and Contractor agrees, at its cost and expense, to indemnify and hold the Council free and harmless from and against any and all costs, expense, liabilities or damages, including attorneys' fees, arising out of alleged or actual patent, copyright, property right, trademark or trade secret infringement resulting from the sale or use of the Goods.

6. INDEMNITY

Contractor agrees to indemnify and hold harmless the Council, officials, employees and agents from all costs, losses, expenses, damages, claims, suits, and liability for injuries to and/or death of any and all persons and for loss of and/or damage to property attributable to Contractor's failure to perform in accordance with the terms of this Agreement or the negligence of Contractor, its subcontractors, agents, or employees.

7. LIMITATION OF LIABILITY

In no event shall the Council be liable for any indirect, incidental, special or consequential damages.

8. FORCE MAJEURE

Neither party shall be liable for any failure or delay in its performance resulting from any cause beyond its reasonable control including, but not limited to, acts of God; acts or omissions of civil or military authority; fires; floods; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riot; delays in transportation; sabotage; or fuel, power, material or labor shortages, provided that the affected party notifies the other party, in writing, within forty-eight (48) hours subsequent to the commencement of an occurrence of Force Majeure.

9. TERMINATION FOR CAUSE

In the event that the Contractor defaults in the performance of any obligation specified herein, the Council shall notify the Contractor in writing and may suspend the Agreement pending remedy of the default. If such default is not remedied within fifteen (15) days from the date of receipt of such notice, or if the Contractor is diligently attempting to cure such default but is unable to cure such default within thirty (30) days from the date of receipt of such notice, then the Council shall have the right to terminate the Agreement immediately by providing written notice of termination to the

Contractor. In the event of such termination, the Council may choose to draw upon the performance bond.

If, during the term of this Agreement, Contractor shall be adjudged bankrupt, make a general assignment for the benefit of its creditors, or become insolvent, Contractor shall give the Council written notice of such occurrence as soon as is legally permissible. If such occurrence or proposed occurrence is unacceptable to the Council, the Council may terminate this Agreement immediately upon written notice thereof to Contractor.

10. NOTICES

All notices required under this Agreement shall be in writing. Written notices shall be effective if delivered by hand, or if sent by registered or certified mail, by verified facsimile, or by confirmed courier to the address specified for each party in this Agreement.

11. CHANGES

The Council shall have the right to make changes to the scope of work set forth in this Agreement. If such changes affect the price or delivery date specified herein, Seller shall, before proceeding, secure approval, in writing of any change in price or date of delivery.

12. TIME IS OF THE ESSENCE

Time is of the essence in the performance, of this Agreement. In the event delivery of Goods or completion of Services is delayed, the Council reserves the right, without liability, and in addition to its other rights and remedies, to terminate this Agreement by notice, and to purchase substitute Goods or Services elsewhere and charge Contractor with any loss or additional cost incurred.

13. RECORDS, AUDIT AND INSPECTION

Contractor shall maintain, in accordance with generally accepted accounting principles and practices, such records as may be necessary to adequately reflect the accuracy of Contractor's charges and invoices for reimbursement under this Agreement and such other additional records to the Council may reasonably require in connection with this Agreement. Contractor shall preserve such records in accordance with statutory requirements, but in no case for less than three (3) years after the date of final payment, without additional reimbursement or compensation therefor. The Council and its duly authorized representatives shall have the right, from time to time, and upon reasonable notice, to audit, inspect and verify the records kept by Contractor in connection with this Agreement. The Council and its duly authorized representatives shall have the right to visit, observe, audit and inspect, during the Contractor's normal business hours, Contractor's production and related facilities utilized to perform its obligations under this Agreement.

14. ASSIGNMENT OF REFUNDS

The Council is not subject to federal, state or local sales or use tax or federal excise tax. Contractor hereby assigns to the Council and its members all of its rights, title and interest in any sales or use tax which may be refunded as a result of the purchase of any materials in connection

with the Contract and Contractor, and unless directed by the Council, shall not file a claim for any sales or use tax subject to this assignment. Contractor authorizes the Council, in its own name or the name of the Contractor, to file a claim for a refund of any sales or use tax subject to this assignment.

15.RELEASE OF LIENS

Before any payment hereunder shall become due, the Council, at its option, may require Contractor to furnish reasonable evidence of the payment of all subcontractor accounts for labor and materials pertaining to Contractor's performance hereunder. Prior to payment, the Council reserves the right to require Contractor to furnish the Council with a full and complete release of liens from all persons furnishing labor and materials toward the performance hereof, and in any event, Contractor agrees to indemnify and hold harmless the Council, its officials, employees and agents from and against any and all liens and encumbrances arising out of Contractor's performance of this Agreement.

16.ASSIGNMENT

Contractor shall not assign this Agreement, in whole or in part, nor delegate any duties, without the prior written consent of the Council. Such consent shall not be unreasonably withheld. Any assignment consented to by the Council shall be evidenced by a written signed agreement executed by the Contractor. Its assignee agrees to be legally bound by all of the terms and conditions of the contract and to assume the duties, obligations, and responsibilities being assigned.

17.PUBLICITY

Neither Contractor nor any tier subcontractor shall use the name of the Council or quote the opinion of any Council employee in any advertising, publicity, endorsement or testimonial, without the prior written approval of the Council.

18.COMPLIANCE WITH LAWS

Contractor shall comply with all applicable laws, ordinances, rules and regulations of governmental authorities and shall further specifically comply with those sections related to Equal Employment Opportunity. Contractor shall give required notices, and secure and pay for temporary permits, licenses, and easements required for performance of this Agreement.

19.WORKERS' COMPENSATION AND PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

The status of the Contractor in the work to be performed by the Contractor is that of any independent Contractor and as such, he shall properly safeguard against any and all injury or damage to the public, to public and private property, materials and things, and as such he alone shall be responsible for any and all damage, loss or injury to persons or property that may arise, or be incurred, in or during the conduct or progress of said work without regard to whether or not the Contractor, his sub-contractors, agents, or employees have been negligent, and the Contractor shall keep the Council free and discharged of and from any and all responsibility and

liability therefore of any sort or kind. The Contractor shall assume all responsibility for risks or casualties of every description, for any or all damage, loss or injury to persons or property arising out of the nature of the work from the action of the elements, or from any unforeseen or unusual difficulty. The Contractor shall assume and be liable for all blame and loss of whatsoever nature by reason of neglect or violation of any Federal, State, County or Local laws, regulations, or ordinances; the Contractor shall indemnify and save harmless the Council from all suits or actions at law of any kind whatsoever in connection with this work and shall if required by the Council, produce evidence of settlement of any such action before final payment shall be made by the Council. Contractor's Liability Insurance Certificate shall include the save harmless clause and shall be filed with the Council.

The Contractor shall maintain such insurance as will protect him from claims under workers' compensation acts and from claims for damages because of bodily injury, including death, and property damage, which may arise from and during operations under this Contract, whether such operations be by himself, by any subcontractor or anyone directly or indirectly employed by either of them. Contractor's liability insurance shall be in the names of the Contractor and the Council, as their respective interests may appear. Certificates of such insurance shall be filed with the Council.

The minimum amount of liability insurance to be maintained by the Contractor during the life of the contract shall be as follows:

Comprehensive General Liability – for bodily injury and property damage – including any liability normally covered by a general liability policy with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate.

Business Automobile Liability – For owned, non-owned, leased and hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage.

Professional Liability – in minimum amounts of \$1,000,000 per occurrence and \$2,000,000 aggregate.

Worker's Compensation – Statutory limits in each state in which Service Provider is required to provide Worker's Compensation coverage including "All States" and "Voluntary Compensation" endorsement, and a Waiver of Subrogation endorsement in favor of the County.

Employer's Liability – with limits of not less than \$100,000 Accident – Each Accident, \$100,000 Disease – Each Employee; and \$500,000 Disease – Policy Limit.

Umbrella/Excess Liability – with limits of not less than \$2,000,000 per occurrence and \$2,000,000 aggregate following from underlying liability coverage.

Liability insurance shall include automobile coverage, including "hired automobiles and non-ownership automobiles."

Liability insurance shall include the hazard of collapse, damage to underground utilities, underground blasting, and excavation.

Prior to any blasting which may be required, blasting insurance shall be obtained by the Contractor in an amount satisfactory to the Council Engineer.

Liability insurance shall include the hazard of building collapse and of damage to adjoining properties and/or to individuals located within or adjacent to each project site.

All subcontractors performing work under this contract must furnish to the Council a copy of their Certificate of Insurance for Workers' Compensation and liability for bodily injury and property damage.

20.CONFLICT OF INTEREST

Contractor shall not pay any salaries, commissions, fees, or make any payments or rebates to any employee or elected official of the Council, or their designees, or favor any employee or elected official of the Council, or their designees, with gifts or entertainment of significant cost or value, or with services or goods sold at less than full market value.

21.INDEPENDENT CONTRACTOR

The employees, subcontractors, methods, facilities, and equipment used by Contractor shall be at all times under Contractor's direction and control. Contractor's relationship to the Council under this Agreement shall be that of an independent contractor, and nothing in this Agreement shall be construed to constitute Contractor, its subcontractors or any of their employees as an employee, agent, associate, joint venturer, or partner of the Council or its members.

22.HAZARDOUS MATERIALS

In the performance of this Agreement, any hazardous material handled by Contractor while on the property of the Council or its members shall be strictly controlled by Contractor as to use and disposal. Storage and use of and personal protection in handling such materials must comply with the instructions on the applicable Material Safety Data Sheet(s).

23.ORDERLINESS & CLEANUP

In the event Contractor provides any on-site Service under this Agreement the Contractor shall keep the site free of waste as the work progresses and, on conviction of service, leave the site "broom clean". In case of dispute, the Council may remove waste at Contractor's expense in order to comply with the Council's requirement for overall job physical orderliness. Contractor's tools equipment and materials furnished for or associated with the Service shall be so placed and maintained as to permit unobstructed access to the work and to minimize exposure to personal injury or fire loss. Equipment placement and material storage shall be at locations approved by the Council and its members.

24.SAFETY & HEALTH

Contractor shall:

- (a) Comply with all Federal, State, and Local regulations and all safety information and instructions as may be set forth in writing or otherwise; provided by the Council;
- (b) Promptly report to the Council all incidents with potentially adverse safety, health or environmental implications, including slips, falls, equipment malfunction, fume releases, and any situation requiring first-aid or medical observations or treatment;
- (c) Promptly report to the Council all cases Contractor determines to be recordable on the OSHA 200 log or its equivalent and, upon request provide the Council with a copy of the OSHA 200 log and all supporting forms; and
- (d) Properly maintain, inspect, and supervise its designated work areas and roadways to keep them in reasonably safe condition. This responsibility includes Contractor's right and duty to conduct reasonable and necessary maintenance in the work areas and of the roadways to prevent unsafe work conditions from existing. Contractor shall regularly conduct safety audits and inspections to ensure compliance with its responsibility to maintain a reasonably safe work area.

25.SUBSTANCE ABUSE

Contractor shall advise its employees and the employees of its subcontractors and agents that:

- (a) It is the policy of the Council to prohibit use, possession, sale, manufacture, dispensing and distribution of drugs or other controlled substances on the work site, and to prohibit in the workplace the presence of an individual with such substances in the body for non-medical reasons; and
- (b) Any Contractor employee who is found in violation of the policy may be removed or barred from the work site at the discretion of ft Council.

26.GOVERNING LAW

This Agreement shall be interpreted under the substantive law of Pennsylvania, without giving effect to any choice of law provisions.

27.SEVERABILITY

In the event that any provision of this Agreement shall be found to be void or unenforceable such findings shall not be construed to render any other provision of this Agreement either void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are void or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either party.

28.RESERVATION OF RIGHTS

Either party's waiver of any of its remedies afforded hereunder or by law is without prejudice and shall not operate to waive any other remedies which such party shall have available to it, nor shall such waiver operate to waive such party's rights to any remedies for future breach, whether of a like or different character. Furthermore, any termination of this Agreement pursuant to

TERMINATION FOR CAUSE, hereof shall not relieve or release either party hereto from any rights, liabilities, or obligations which it has accrued under law or under the terms of this Agreement prior to the date of such termination.

29. ENTIRE AGREEMENT

This Agreement contains the complete and entire Agreement between the parties and may not be altered or amended except in writing executed by a duly authorized official of the Council and by a duly authorized individual of the Contractor.

END OF GENERAL CONDITIONS

Berks County Cooperative Purchasing Council

SPECIFICATIONS FOR MOTOR OILS AND LUBRICANTS

GENERAL BID CONDITIONS:

SCOPE OF WORK:

It is the intent of these specifications to provide the details under which a successful bidder(s) shall furnish and deliver Motor Oils and Lubricants to members of the Berks County Cooperative Purchasing Council (BCCPC) through sealed bids requested by the City of Reading, PA. The Contractor agrees to furnish all necessary personnel, materials, equipment, supplies and services required to provide and deliver the quantity, type and quality and at the frequencies and locations specified to the BCCPC and its participating members at those unit prices submitted.

BACKGROUND:

The Berks County Cooperative Purchasing Council is an organization of county and local governments formed for the purpose of purchasing commodities which lend themselves to bulk buying. The Council is formed under the applicable provisions of P.L. 526, April 29, 1937, P.L. 544, July 28, 1941, and P.L. 509, July 9, 1959.

MEMBERSHIP

The current BCCPC members include:

Municipality

Albany Township
Alsace Township
Alvernia University
Amity Township
Antietam Valley Municipal Authority
Bally Borough
Bechtelsville Borough
Berks Area Reading Transp. Auth.
Berks Career & Technology Center
Berks County Convention Center
Berks County Intermediate Unit
Berks Montgomery Municipal Auth.
Bern Township
Bern Township Municipal Authority

Representative

Charles Volk, Supervisor
Jane Bender, Secretary

Kathie Benson, Admin. Asst.

Acting Manager
Valerie Moll, Secretary

Eric Clemmer, Purchasing Manager

Robert Hauck, Roadmaster

Municipality

Bernville Borough
Bethel Township
Bethel Township Municipal Auth.
Birdsboro Borough
Boyertown Borough
Brecknock Township
Caernarvon Township
Caernarvon Township Municipal Auth.
Centre Township
Centre Township Municipal Auth.
City of Reading
Colebrookdale Township
County of Berks
Cumru Township
Douglass Township
Earl Township
Exeter Township
Fleetwood Borough
Fleetwood Volunteer Fire Company
Greenwich Township
Hamburg Borough
Heidelberg Township
Jefferson Township
Kenhorst Borough
Kutztown Borough
Longswamp Township
Lower Alsace Township
Lyons Borough
Lyons Borough Municipal Authority
Maidencreek Township
Maidencreek Township Authority
Marion Township
Maxatawny Township
Mohnton Borough
Mount Penn Borough
Mount Penn Borough Municipal Auth.
Muhlenberg School District
Muhlenberg Township
North Heidelberg Township
Oley Township
Oley Township Municipal Authority
Ontelaunee Township
Penn Township
Perry Township
Pike Township
Port Clinton Borough

Representative

Randy Copenhaver, Council Member
Randall Haag, Supervisor

Acting Manager
Patricia Spaide, Manager
Dorothy Martin, Secretary
Randy Miller, Manager

Heather Dunkle, Purchasing Coordinator

Kelly Laubach, Senior Buyer
Robert McNichols, Public Works Supervisor
John Groff, Roadmaster
Michael Eshbach, Roadmaster
Troy Bingaman, Manager
Robert Weidner, Roadmaster

Laurie Baker, Secretary
Lynda Albright, Manager
Samuel Perrotto, Public Works & Safety Director
Gary Himmelberger, Supervisor/Roadmaster
Harold Jackson, Manager
Russell Samilo, Finance Director
Scott Miller, Roadmaster
Elaine E. Bildstein, Manager

Terry Manmiller, Operations Director

K. Ray Stauffer, Manager
Richard Trostle, Mayor
Dennis Swartz, Council Member

Steve Landes, Manager
Walter Stewart, Supervisor
Craig Conrad, Roadmaster

Kenneth Stoudt, Roadmaster
Sharon Harrison, Manager
Mark Stitzel, Supervisor
Gary Reider, Supervisor/Roadmaster
Shirley Adam, Secretary

Municipality**Representative**

Reading Area Community College	Michael Hodowanec, Purchasing Manager
Reading Area Water Authority	Dean Miller, Executive Director
Reading Downtown Improvement Dist.	Charles Broad, Executive Director
Reading Regional Airport Authority	
Richmond Township	Norann Warmkessel, Secretary
Robeson Township	Tom Keim, Manager
Rockland Township	Terry Fegley, Roadmaster
Ruscombmanor Township	Richard Seidel, Roadmaster
Shillington Borough	Michael Mountz, Manager
Shoemakersville Borough	
Sinking Spring, Borough	Mike Hart, Public Works Director
South Heidelberg Township	Ronald Seaman, Township Manager
Spring Township	Leon Mazurie, Recreation Director
St. Lawrence Borough	Allison Leinbach, Manager
Strausstown Borough	
Tilden Township	Cheryl Haus, Secretary
Topton Borough	Acting Manager
Tulpehocken Township	Ronald Whitmoyer, Supervisor
Union Township	John Salanek, Roadmaster
Upper Bern Township	Paul Mogel, Supervisor
Upper Tulpehocken Township	Shirley Adam, Secretary
Washington Township	Jason Ganster, Manager
Washington Township Authority	
West Reading Borough	George Tindall, Manager
Western Berks Water Authority	
Windsor Township	Paul Reidenhour Jr, Supervisor
Womelsdorf-Robeson Joint Mun. Auth.	
Wyomissing Borough	Kevin Tobias, Manager

During the term of this bid, the Berks County Cooperative Purchasing Council would like to afford the same prices, terms and conditions to any current or future member of the Berks County Cooperative Purchasing Council, even though their requirements are not in the quantities listed on this bid. All bidders are therefore asked to complete and return the enclosed Berks County Cooperative Purchasing Council offering form.

Since this is a cooperative effort, it shall be understood and agreed by the bidders that payment to the contractor shall be made by each individual municipality for the goods and services that each orders, receives and accepts. It shall be clearly understood and agreed by all bidders that each municipality shall be responsible to the successful bidders for the execution and placement of individual orders as well as payment thereof. The City of Reading will execute an agreement on behalf of the Council; however, under no circumstances shall the City of Reading be responsible for payment of a participating municipality's purchase.

The contract(s), once signed by the successful bidder(s) and the Council, constitute authority to place orders for the items specified. Individual orders will be issued by each municipality and each shall be

responsible for inspection, acceptance and payment thereof. Actual quantities and delivery provisions for each such order will be established in the order. Vendors shall not ship any quantities until an order has been placed by any of the respective municipalities.

CONTRACT PERIOD:

Performance will begin approximately November 15, 2010, upon notice from the Council, and will continue for a twelve (12) month period. Contractor shall, within fourteen (14) days of notice of contract award, but no later than November 30, 2010, or first delivery, whichever is earliest, contact each participating co-op municipality member listed outlining details of order placement, telephone numbers, sales representative, and other information necessary for efficient ordering and delivery. Under no circumstance will deliveries begin prior to this required notice to the municipality or request for delivery by the municipality.

OPTION TO EXTEND:

The Berks County Cooperative Purchasing Council reserves the right to extend this contract for up to three (3) months. This extension will be utilized only to prevent a lapse on contract coverage, and only for the time necessary, up to three (3) months, to issue the new contract.

OPTION TO RENEW:

The contract may be renewed for an additional one (1) year term by the mutual agreement between the BCCPC and the contractor(s). If the contract is renewed, the same terms and conditions shall apply.

If the contract is renewed, a new performance bond or a rider supplementing the original bond will be required for the extended period.

DEFAULT:

In case of default by Contractor, the Council may procure the commodity or service from another sources and hold the contractor responsible for any excess costs occasioned thereby.

Technical Specifications

Berks County Cooperative Purchasing Council

Motor Oils and Lubricants

The following pages contain minimum specifications for motor oils and lubricants to be delivered to Municipalities throughout the County of Berks.

The quantities listed are estimates provided for informational purposes only and shall not be construed in any way as a commitment on the part of the BCCPC or its members to purchase like amounts for the contract period.

Bidder shall total prices per unit price and enter that amount in the appropriate place on the Bid Form. This total will be the basis for determining the amount of Bid Surety.

Notice: The following documentation is required to be submitted **with the bid**.

- Signed Bid
- Bid Surety – Bond, Certified Check, or Cashier's Check
- Signed and Notarized Non-Collusion Affidavit
- Authorization to Extend Bid to All Authorized Members
- Attachment "A"

Pricing and Billing

- a. All bid prices will be net FOB destination freight prepaid.
- b. Bid price shall include a sufficient allowance of up to one (1) hour, excluding meals, for time required to safely deliver and unload product ordered.
- c. The contractor shall not charge for, and the ordering municipality shall not be liable for payment of delays caused by contractor or which are beyond the control of the ordering municipality including the time required to position the vehicle, unload and/or discharge product, connect and disconnect to fixtures, clean up spills, and other delays resulting from contractor negligence or inability to perform routine handling procedures
- d. Additional reasonable unloading time, beyond the one (1) hour allowance, if caused by the municipality may be charged to the ordering municipality at the carrier/contractor published rates.
- e. A separate invoice shall be prepared for each order delivered. It shall match with and reference the delivery ticket for that order as well as indicated the date of delivery.

Delivery to Any Location within the Participating Municipalities

- a. Delivery of item is required within seventy-two (72) hours of receipt of order, either oral, facsimile, or written, unless agreed upon by the ordering agency. If delivery is not made within the specified time, the vendor may be assessed liquidated damages as specified.
- b. Unless otherwise ordered, deliveries shall be FOB loading dock or receiving section of each ordering activity. The municipalities desire twenty-four (24) hour advance notice of actual delivery. Unless otherwise agreed by ordering municipality, deliveries shall be made between the hours of 7:00 A.M. and 3:00 P.M.
- c. Deliveries shall be made in accordance with the requirements listed below and the enclosures, which indicate product, delivery quantities, and normal working hours at the receiving building/facility. A list of special delivery instructions is included in enclosures.
- d. It is the Contractor responsibility to deliver and unload product, in accordance with the specifications, to the designed locations, in safe manner, which conforms to acceptable trade practices and all applicable statutes, regulations and ordinances. Unloading shall be performed in a timely and efficient manner commensurate with safety requirements. Neither the Berks County Cooperative Purchasing Council nor any of the Council members shall pay extra charges resulting from difficulties encountered in making deliveries, or doing any other work required in fulfilling the provisions of this contract. The Contractor is fully responsible for off-loading of all materials and is additionally responsible for providing all equipment necessary to deliver, discharge or unload bulk product into municipal storage.
- e. The Contractor shall be responsible for any damages or injury to buildings, facilities grounds, and personnel caused by negligence of the Contractor or his/her employees and/or the Contractor's equipment, the cost of such damages or injury shall be charged to the Contractor. The Contractor shall be responsible for cleaning up and disposal of any spillage.
- f. The Contractor shall not be responsible for any delays or stoppages in delivery caused by general strikes, fire, flood, accidents, acts of God or causes beyond the control of the Contractor including legal or regulatory requirements of any Federal, Commonwealth, or Local governmental agency provided that the Contractor shall notify the Berks County Cooperative Purchasing Council in writing within five (5) days from the date of such occurrence.

Liquidated Damages

If any item is not delivered within the time limits specified, the delay will interfere with the proper implementation of the municipality's programs utilizing the items to the loss and damage of the municipality. From the nature of the cause, it would be impractical and extremely difficult to fix the actual damage sustained in the event of any such action. The municipality and the awarded vendor(s); therefore, presume that in the event of any such delay, the amount of the damage which will be sustained from a delay will be one hundred (\$100) dollars per calendar day, and they agree that in the event of any such delay, the awarded vendor(s) shall pay such amount as liquidated damages and not as a penalty. The municipality at its option for the amounts due as liquidated damages may deduct from any money payable to the awarded vendor(s) or may bill the awarded

vendor(s) as a separate item. The municipality shall notify the awarded vendor(s) in writing of any claims for liquidated damages pursuant to this paragraph before the date the municipality deducts such sums from money payable to the vendor(s).

Quality

- a. The Contractor shall supply product conforming to the specifications, terms and conditions of the Contract unless otherwise agreed to by the ordering municipality.
- b. The Berks County Cooperative Purchasing Council and the ordering municipality reserve the right to independently verify all products delivered. Product determined to be non-conforming shall be disposed of by vendor(s).
- c. Repetitive delivery of non-conforming product may be cause for contract termination under the provisions of the contract.

Safety and Shipping

- a. All shipping shall be in strict accordance with most current Federal and State Department of Transportation regulation using approved and properly marked containers, vehicles and materials handling equipment.
- b. The Contractor shall furnish, with the delivery to the ordering municipality, Material Data Safety Sheets (MSDS) and include any other descriptive literature of the product(s) delivered.

Weekend/Holiday/Off Duty Operations

- a. The intent of the Berks County Cooperative Purchasing Council is to operate only during normal business hours; however, it is recognized that there may be circumstances, such as emergencies, that necessitate ordering and/or delivery of motor oils and lubricants during off-duty hours including weekends and holidays.
- b. Prices are requested for off-duty operations. Such prices shall be bid as an adjustment in base price of product.

BERKS COUNTY COOPERATIVE PURCHASING COUNCIL DELIVERY LOCATIONS

MUNICIPALITY	DELIVERY LOCATION
City of Reading/RAWA	Garage - 501 N. 6 th St., Reading, 19601
	WWTP – Rt. 10, Morgantown Rd., 19607
	Water Storeyard – 927 Bern St., Reading, 19601
Kenhorst Borough	339 S. Kenhorst Blvd., Kenhorst, 19607
Perry Township	680 Moselem Springs Rd., Shoemakersville, 19555
Spring Township	2800 Shillington Rd., Sinking Spring, 19608

AUTHORIZATION TO EXTEND BID TO ALL AUTHORIZED MEMBERS

BERKS COUNTY COOPERATIVE PURCHASING COUNCIL

During the term of this bid, the Council would like to afford the same prices, terms and conditions to any current or future member of the Council, even though their requirements are not included in the quantities listed on the bid.

The City of Reading will inform awarded vendor(s) of additional members who would be authorized to purchase against this bid.

_____ I will allow authorized members of the Council whose amounts are not listed in these specifications to purchase off this bid.

_____ I will NOT allow authorized members of the Council whose amounts are not listed in these specifications to purchase off this bid.

Company Name

Signature

Title

Date

PROPOSAL FOR MOTOR OILS AND LUBRICANTS FOR
THE BERKS COUNTY COOPERATIVE PURCHASING COUNCIL

Proposal of

(name)

(address)

TO: City of Reading
815 Washington Street
Reading, PA 19601

Dear Madam or Sir:

In conformity with Council plans and specifications, all as prepared by the Berks County Cooperative Purchasing Council (BCCPC) and after an examination of the site of the work, and the Contract Documents, including the instructions to Bidders, Form of Proposal, Bid Bond and Conditions, the undersigned submits this proposal, and encloses herewith as proposal guaranty, a Certified Check, Bank Cashier's Check or Bid Bond, in an amount not less than ten percent (10%) of the bid herein submitted, which it is understood will be forfeited if this proposal is accepted by the BCCPC, and the undersigned fails to furnish approved bonds and execute the contract within the time stipulated; otherwise, the guarantee will be returned.

The undersigned declares that no Member of Council, Director of Department, Director of Division, deputy thereof or clerk therein, or other officer of the BCCPC or any of its members, is directly or indirectly interested as principal, surety or otherwise in this proposal or in the performance of the contract work or business to which it is related, or in any portion of the profits thereof.

It is certified that the undersigned is the only person(s) interested in this proposal as principal and that the proposal is made without collusion with any person, firm, or corporation.

It is hereby agreed to execute the contract and furnish surety company bonds, on the forms enclosed in the Contract Documents, in the amount of one hundred percent (100%) of the contract price within ten (10) days of mailing of the contract documents from the Council to the Principal, and to begin work within ten (10) days after finalization of the Contract Documents.

It is proposed to furnish and deliver all materials, tools, equipment, power, tests and transportation, perform all labor, superintendence, and all means of construction, and do all incidental work, and to execute, construct and finish in an expeditious and workman-like manner, in accordance with the plans and specifications, to the satisfaction and acceptance of the the BCCPC and its members for furnishing Motor Oils and Lubricants for the unit prices as herein bid:

OPTION 1 – VIRGIN OIL:

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENDED PRICE
CRL UNIV SYN ATF – 55 gallon drums	6		
City of Reading	5		
Spring Township	1		
GLOBAL LIFETIME ANTIFREEZE & COOLANT, ADD TO ANY COLOR ANTIFREEZE – 55 gallon drums	6		
City of Reading	4		
Kenhorst Borough	1		
Perry Township	1		
CHEVRON CJ4 15/40 ENGINE OIL – NO SUBSTITUTIONS – 55 gallon drums	15		
City of Reading	9		
Perry Township	2		
Spring Township	3		
CHEVRON SUPREME 5/20 ENGINE OIL OR APPROVED EQUAL – 55 gallon drums	2		
Spring Township	2		
CHEVRON SUPREME 10/30 ENGINE OIL OR APPROVED EQUAL – 55 gal drums	10		
City of Reading	9		
Kenhorst Borough	1		
CHEVRON SUPREME SAE 10 ENGINE OIL OR APPROVED EQUAL – 55 gallon drums	2		
City of Reading	2		
CHEVRON SUPREME SAE 30 ENGINE OIL OR APPROVED EQUAL – 55 gallon drums	3		
City of Reading	3		
AMSOIL DIESEL & MARINE 15/40 – 55 gallon drums	1		
Kenhorst Borough	1		

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENDED PRICE
CHEVRON AW 32 HYDRAULIC OIL OR APPROVED EQUAL – 55 gallon drums	24		
City of Reading	22		
Kenhorst Borough	1		
Perry Township	1		
CHEVRON 220 GEAR OIL OR APPROVED EQUAL – 55 gallon drums	36		
City of Reading	36		
CHEVRON SYNTHETIC TEGRA 460 SYNTHETIC GEAR LUBRICANT – NO SUBSTITUTIONS – 55 gallon drums	12		
City of Reading	12		
CHEVRON UNIVERSAL EP 80/90 GEAR LUBE OR APPROVED EQUAL – 120 lb. drums	5		
City of Reading	4		
Kenhorst Borough	1		
ULTI-PLEX SYNTHETIC GREASE EP2 – 14 oz. cartridges	624		
City of Reading	600		
Kenhorst Borough	24		
AUTOMATIC TRANSMISSION FLUID, DEXTRON – NO SUBSTITUTIONS – 55 gallon drums	1		
City of Reading	1		
AMSOIL UNIVERSAL TRANSMISSION FLUID – 55 gallon drums	7		
City of Reading	6		
Kenhorst Borough	1		
46 HYDRAULIC OIL – 55 gallon drums	5		
City of Reading	3		
Spring Township	2		
10W30 WITH A RATING OF API CH4 OR HIGHER – 55 gallon drums	4		
City of Reading	4		

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENDED PRICE
SUNFLEET SUPER C 15W-4 OR APPROVED EQUAL – 55 gallon drums	1		
City of Reading	1		
CHEVRON DELO 400 MULTIGRADE SAE 15W-40 OR APPROVED EQUAL – 55 gallon drums	1		
City of Reading	1		
CHEVRON DELO SAE 40 HEAVY DUTY OR APPROVED EQUAL – 55 gal drums	1		
City of Reading	1		
MULTIPURPOSE ATF DETRON/MERCON – 55 gallon drums	6		
City of Reading	6		
SHELL ZONE ANTIFREEZE OR APPROVED EQUAL – 55 gallon drums	4		
City of Reading	4		

OPTION II – BULK DELIVERIES – VIRGIN OIL

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENDED PRICE
CHEVRON SUPREME 5/30 ENGINE OIL OR APPROVED EQUAL – gallons bulk	275-600		
City of Reading	275-600		
CHEVRON CJ4 15/40 ENGINE OIL – NO SUBSTITUTIONS – gallons bulk	960-1500		
City of Reading	960-1500		
CHEVRON SUPREME 5/20 ENGINE OIL OR APPROVED EQUAL – gallons bulk	1000-1400		
City of Reading	1000-1400		
CHEVRON SUPREME 10/30 ENGINE OIL OR APPROVED EQUAL – gallons bulk	710-750		
City of Reading	710-750		

PLEASE NOTE THE QUANTITIES LISTED ARE ESTIMATES PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND SHALL NOT BE CONSTRUED IN ANY WAY AS A COMMITMENT ON THE PART OF THE BERKS COUNTY COOPERATIVE PURCHASING COUNCIL. THE

MUNICIPALITIES WILL ONLY PAY FOR THE EXACT QUANTITIES PURCHASED. THIS CONTRACT IS FOR A SERIES OF DELIVERIES THROUGHOUT THE YEAR ON AN AS NEEDED BASIS.

TOTAL FOR ESTIMATED USAGE, AS LISTED ABOVE, OF MOTOR OILS AND LUBRICANTS:

\$ _____
(figures)

(written)

IN WITNESS WHEREOF, this proposal has been executed this _____ day of _____, A.D. 20 __.
by the setting hereunto of his or its hand and seal.

FOR INDIVIDUAL:

(Signature of Individual) (Seal)

Witness:

Trading and Doing Business as:

FOR PARTNERSHIP:

(Name of Partnership)

Witness:

By:

(Seal)

(Seal)

(Seal)

(Seal)

(Partners)

(Witness)

FOR CORPORATION:

(Name of Corporation)

By: _____
(Officer or Auth. Rep.)

Title: _____

Attest:

By: _____

Title: _____

(CORPORATE SEAL)

Witness:

Signed: _____

Title: _____

Subscribed and sworn to before me on

this __day of _____, 20____.

Title: _____

My commission expires:

(Corporation Surety)

(Name of Corporation)

By: _____
**(Attorney-in-Fact)

Witness:

(Corporate Seal)

**Attach an appropriate power of attorney, valid and in effect as of the date of this affidavit, evidencing the authority of the Attorney-In-Fact to act in behalf of the corporation.

FORM OF BID BOND

BOND

KNOW ALL MEN BY THESE PRESENTS that we, the undersigned,

_____, as Principal (the "Principal"), and

_____ a corporation organized and existing under laws of the

_____ of _____, as Surety (the "Surety"), are held and firmly bound unto

_____ as Obligee (the "Obligee"), as hereinafter set forth, in the full and just sum of

_____ Dollars (\$_____), lawful money of the United States of America, for the payment of which sum we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WITNESSETH THAT:

WHEREAS, the Principal herewith is submitting a Proposal to the Obligee to perform the Work in connection with the construction of _____ pursuant to plans, specifications and other documents constituting the Contract Documents which are incorporated into said Proposal by reference (the "Contract Documents"), as prepared by the Department of Finance, City Hall, 815 Washington Streets, Reading, PA 19601-3690.

WHEREAS, it is a condition of the receipt and consideration by the Obligee of said Proposal that it shall be accompanied by proposal guaranty to be held by the Obligee on terms hereinafter set forth.

NOW, THEREFORE, the condition of this Bond shall be such that, if the Principal, within ten (10) days after mailing of contract document by the City to Principal, shall furnish to the Obligee a Performance Bond, Payment Bond and a Wage Rate Compliance Bond, and upon award of a contract to him by the Obligee, shall execute and deliver the Agreement and furnish to the Obligee proper evidence of effectiveness of insurance coverage, respectively within the time, in the forms and in the amounts, as appropriate, required by the Contract Documents, then this Bond shall be void, otherwise, this Bond shall remain in full force and effect. The Principal and the Surety agree to pay to the Obligee the difference between the amount of said Proposal, as accepted by the Obligee, and any higher amount for which the required work shall be contracted for by the Obligee, together with any additional advertising costs, architect's fees, legal fees and any all other fees and expenses incurred by the Obligee by reason of the failure of the Principal to enter into such Agreement with the obligee, or to furnish such Contract Bonds, or to furnish evidence of effectiveness of such insurance coverage; provided, however, that (1) the obligation of the Surety shall not exceed the stated principal amount of this Bond; and (2) if the Obligee should not procure an executed contract with any other person for the performance of the work contemplated in said Proposal, as accepted by the Obligee, upon the same terms and conditions, other than price, as provided in the Contract Documents, within the period provided in the Contract Documents during which no proposals of bidders may be withdrawn, whether because of the lack of other proposals, or because of the inability or refusal of any other bidder to enter into an appropriate contract, or because the cost under any higher proposal would be greater than the Obligee shall determine, in its sole discretion, that it can afford, then the Principal and the Surety agree to pay to the Obligee the full amount of this Bond as liquidated damages.

IN WITNESS WHEREOF, the Principal and the Surety cause this Bond to be signed, sealed and delivered this _____ day of _____, 20____.

(INDIVIDUAL PRINCIPAL)

(Signature of Individual) (Seal)

Witness:

Trading and Doing Business as:

(PARTNERSHIP PRINCIPAL)

(Name of Partnership)

Witness:

By: _____ (Seal)
(Partner)

Witness:

By: _____ (Seal)
(Partner)

Witness:

By: _____ (Seal)
(Partner)

Witness:

By: _____ (Seal)
(Partner)

(CORPORATION PRINCIPAL)

(Name of Corporation)

By: _____
(President/Vice President)

Attest:

(Assistant or Secretary)

(Corporate Seal)

(OR, IF APPROPRIATE)

(Name of Corporation)

By: _____
(Authorized Representative)

Signed _____

(Title)

Subscribed and sworn to before me on

this ____ day of _____, 20 ____

(Title)

My Commission Expires:

(CORPORATION SURETY)

(Name of Corporation)

** By: _____
(Attorney-In-Fact)

Witness:

(Corporate Seal)

** Attach an appropriate Power of Attorney, valid and in effect as of the date of this affidavit, evidencing the authority of the Attorney-In-Fact to act in behalf of the corporation.

NON-COLLUSION AFFIDAVIT

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any contract pursuant to this bid. According to the Pennsylvania Antibid-Rigging Act, 73 P.S. 1611 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with bids.
2. This Non-Collusion Affidavit must be executed by the member officer, or employee of the bidder who is authorized to legally bind the bidder.
3. Bid rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the bidder with responsibilities for the preparation, approval or submission of the bid.
4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents, and an Affidavit must be submitted separately on behalf of each party.
5. The term “complementary bid” as used in the Affidavit has the meaning commonly associated with that term in the bidding process, and includes the knowing submission of bids higher than the bid of another firm, any intentionally high or noncompetitive bid, and any form of bid submitted for the purpose of giving a false appearance of competition.
6. Failure to file an Affidavit in compliance with these instructions will result in disqualification of the bid.

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of _____

County of _____

_____, being first duly
(Name)

sworn, deposes and says that:

(1) He/She is _____
(Owner, Partner, Officer, Authorized Representative or Agent)

of _____, the Bidder that has
submitted the attached Bid or Bids;

(2) He/She is fully informed respecting the preparation and contents of the attached Bid
and of all pertinent circumstances respecting such Bid;

(3) Such Bid is genuine and is not a collusive or sham Bid;

(4) Neither the said Bidder nor any of its officers; partners, owners, agents, representatives,
employees or parties in interest, including this affiant, has in any way colluded, conspired, connived
or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham Bid
in connection with the Contract for which the attached Bid has been submitted or to refrain from
bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by
agreement or collusion or communication of conference with any other Bidder, firm or person to fix
the price or prices in the attached Bid or of any other Bidder, or to fix any overhead profit or cost
element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion,
conspiracy, connivance or unlawful agreement any advantage against the BCCPC or any person
interested in the proposed Contract;

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by
any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its
agents, representatives, owners, employees, or parties in interest, including this affiant; and,

(6) Neither the said Bidder nor any of its officers, partners, owners, agents or parties in
interest, have any interest, present or prospective, that can be reasonably construed to result in a
conflict of interest between them and the BCCPC or any of its members, which the Bidder will be
required to perform.

I state that _____
(Name of Firm)

understands and acknowledges that the above representations are material and important, and will be relied on by the BCCPC in awarding the Contract(s) for which this Bid is submitted. I understand and my firm understands that any misstatement in this Affidavit is and shall be treated as fraudulent concealment from the BCCPC of the true facts relating to the submission of bids for this Contract.

Signature

Company Position

SWORN TO AND SUBSCRIBED
BEFORE ME THIS _____ DAY
OF _____, 20__

Notary Public

My Commission Expires: